UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,379	12/28/2000	Norbert Lenz	DE919990092-US1	1510

7590	06/29/2005

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EXAMINER
PATEL, NIKETA I

ART UNIT	PAPER NUMBER
2182	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/752,379	LENZ ET AL.
	Examiner	Art Unit	
	Niketa I. Patel	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>13 April 2005</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-13</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>28 December 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 04/13/2005 has been entered.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2.   Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

    a.   Claim 1 recites the limitations "the name of the supporter program" in line 10 and

"the requested functionality" in line 11 and "the current status" in line 13 and "the

supporter" in line 14. There is insufficient antecedent basis for these limitations in the

claim.

    b.   Claim 6 recites the limitations "the name of the supporter program" in line 11 and

"the requested functionality" in line 12 and "the current status" in line 14 and "the

supporter" in line 15. There is insufficient antecedent basis for these limitations in the

claim.

c.   Claim 7 recites the limitations "the name of the supporter program" in line 12 and

"the requested functionality" in line 13 and "the current status" in line 15 and "the

supporter" in line 16. There is insufficient antecedent basis for these limitations in the

claim.

d.   Claim 8 recites the limitations "the name of the supporter program" in line 11 and

"the requested functionality" in line 12 and "the current status" in line 14 and "the

supporter" in line 15. There is insufficient antecedent basis for these limitations in the

claim.

e.   Claim 9 recites the limitations "the name of the supporter program" in line 12 and

"the requested functionality" in line 13 and "the current status" in line 15 and "the

supporter" in line 16. There is insufficient antecedent basis for these limitations in the

claim.

f.   The dependent claims 2-5, 10-13 inherits the same deficiency.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiszman et

al. U.S. Patent Number: 6,115,646 (hereinafter referred to as *"Fiszman"*,) Bruno et al. U.S.

Patent Number: 6,434,631 (hereinafter referred to as *"Bruno"*) and further in view of Freund

U.S. Patent Number: 5,987,611 (hereinafter referred to as *"Freund"*.)

5.   **Referring to claims 1, 6, 7, 8, 9,** *Fiszman* teaches a method, a system and a program

storage device for supporting automated management of supporter-owned resources in a system

having at least one repository and a resource managing program means, comprising the steps of

[see column 3 – lines 1-30; figure 4 – element 1-7]: a repository comprising requests and request

attributes wherein each request defines an action to be performed, or a desired state to be

achieved, the state being associated with a respective one of said resources [see column 5 – lines

35-67; column 6 – lines 1-3; figure 3 – element 82]; accessing requests by a request scheduler

and reorganizing said requests into a chain of requests based on said request attributes [see

column 9 – lines 9-26; figure 4 – element 'Scheduler']; and invoking resource managing

program means for handling the chain of said requests [see column 9 – lines 23-39.] *Fiszman*

does not set forth the limitation of placing all requests in a repository however, *Bruno* teaches the

limitation of storing (placing) requests in to a queue (repository) before a scheduler processes the

requests [see *Bruno* column 2, lines 42-64] in order to provide a fair queuing scheduling

algorithm that considers the estimated time required to service the request at the head of a queue

with regard for the size of the input or output associated with the request.

One of ordinary skill in the art at the time of applicant's invention would have clearly

recognized that it is quite advantageous for *Fiszman* to be able to store incoming request into a

repository before the scheduler accesses them in order to provide a fair queuing scheduling

algorithm that considers the estimated time required to service the request at the head of a queue

with regard for the size of the input or output associated with the request. It is for this reason that

one of ordinary skill in the art would have been motivated to place all request into a repository to

provide a user with a fair queuing scheduling algorithm.

Fiszman is silent regarding the limitation of the request attributes comprising at least a

name of the supporter program, a requested functionality, a unique string identifying a

configuration containing the request, supporter-specific request parameters, a current status of

the request and a version of the supporter required to execute the request. *Freund* teaches a

request comprising the above cited attributes [see *Freund* column 4, lines 40-50] in order to be

able to filter a request's access to certain resources.

One of ordinary skill in the art at the time of applicant's invention would have clearly

recognized that it is quite advantageous for *Fiszman*'s request to have above stated various

attributes in order to be able to filter a request's access to certain resources therefore allowing to

restrict certain user's access to certain resources. It is for this reason that one of ordinary skill in

the art would have been motivated to include various above stated attributes in a request in order

to be able to filter a request's access to certain resources.

6.   **Referring to claims 2 and 10**, teachings of *Fiszman* as modified above by the teachings

of *Bruno* teaches said requests define desired states of operating system maintained resources,

wherein the method further comprises the step of invoking supporter program means for

ensuring that said resources are set according to said requests [see column 9 – lines 9-50.]

7.   **Referring to claims 3 and 11**, teachings of *Fiszman* as modified above by the teachings

of *Bruno* teaches further comprising the step of using a standardized interface for said invocation

of supporter programs [see column 7 – lines 33-36, 49-64.]

8.   **Referring to claims 4 and 12**, teachings of *Fiszman* as modified above by the teachings

of *Bruno* teaches further comprising at least one of the steps of: checking for inconsistencies

caused by one or more requests, generating one or more new requests as a child request of an

already existing request, simulating the execution of said requests, executing updates of

resources and generating special requests for activation, making updates known to the operating

system, and reversing updates done before [see column 8 – lines 47-65; column 9 – lines 40-44.]

9.   **Referring to claims 5 and 13**, teachings of *Fiszman* as modified above by the teachings

of *Bruno* teaches further comprising the step of generating a user-readable protocol in which

effects of execution of one of said steps according to the preceding claim are logged with

respective settings of said resources [see column 9 – lines 58-63.]

Response to Arguments

10.   Applicant's arguments with respect to claims 1-13 have been considered but are moot in

view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The

examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dov Popovici can be reached on (571) 272 4083. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP
06/23/2005

KIM HUYNH
PRIMARY EXAMINER

6/24/05